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6 **UNITED STATES DISTRICT COURT**
7 **DISTRICT OF NEVADA**

8 KEVIN KROHN,

9 Plaintiff(s),

10 v.

11 AMERICAN AUTOMOBILE
12 ASSOCIATION OF NORTHERN
13 CALIFORNIA NEVADA & UTAH dba
AAA NEVADA INSURANCE, et al.,

14 Defendant(s).
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2:12-CV-2099 JCM (RJJ)

16 **ORDER**

17 Presently before the court is defendant AAA Nevada Fire & Casualty Insurance Company's
18 motion to dismiss plaintiff's allegations regarding breach of fiduciary duty and fraudulent
19 inducement. (Doc. # 4). Defendant's motion is filed pursuant to Fed. R. Civ. P. 8, 9, and 12(b)(6).
20 On January 4, 2013, defendant filed a notice of non-opposition. (Doc. # 7). To date, plaintiff Kevin
21 Krohn has failed to file an opposition.

22 Pursuant to Local Rule 7-2(d), an opposing party's failure to file a timely response to any
23 motion constitutes the party's consent to the granting of the motion and is proper grounds for
24 dismissal. *U.S. v. Warren*, 601 F.2d 471, 474 (9th Cir. 1979). However, prior to dismissal, the
25 district court is required to weigh several factors: "(1) the public's interest in expeditious resolution
26 of litigation; (2) the court's need to manage its docket; (3) the risk of prejudice to the defendants;
27 (4) the public policy favoring disposition of cases of their merits; and (5) the availability of less
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1 drastic sanctions.”*Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (citing *Henderson v. Duncan*,
2 779 F.2d 1421, 1423 (9th Cir. 1986)).

3 The instant motion specifically seeks dismissal of plaintiff’s fourth cause of action for breach
4 of fiduciary duty and plaintiff’s fifth cause of action for fraudulent inducement. (*See* doc. # 4). In
5 light of plaintiff’s failure to respond and weighing the factors identified in *Ghazali*, the court finds
6 dismissal appropriate.

7 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that defendant AAA Nevada
8 Fire & Casualty Insurance Company’s motion to dismiss plaintiff’s allegations regarding breach of
9 fiduciary duty and fraudulent inducement (doc. # 4) be, and the same hereby is, GRANTED.

10 Thus, plaintiff’s fourth and fifth causes of action are dismissed without prejudice.

11 DATED January 14, 2013.

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14 **UNITED STATES DISTRICT JUDGE**